

# House File 571 - Introduced

HOUSE FILE 571  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 210)

## A BILL FOR

1 An Act relating to temporary restricted licenses and ignition  
2 interlock devices for operating-while-intoxicated offenses  
3 and providing penalties.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321J.2, subsection 3, paragraph c,  
2 unnumbered paragraph 1, Code 2013, is amended to read as  
3 follows:

4 Assessment of a fine of one thousand two hundred fifty  
5 dollars. However, in the discretion of the court, if no  
6 personal or property injury has resulted from the defendant's  
7 actions, the court may waive up to six hundred twenty-five  
8 dollars of the fine when the defendant presents to the court at  
9 the end of ~~the~~ any minimum period of ineligibility a temporary  
10 restricted license issued pursuant to section 321J.20.

11 Sec. 2. Section 321J.2, subsection 3, paragraph d, Code  
12 2013, is amended by striking the paragraph and inserting in  
13 lieu thereof the following:

14 d. Revocation of the person's driver's license for a minimum  
15 period of one hundred eighty days up to a maximum revocation  
16 period of one year, pursuant to section 321J.4, subsection 1,  
17 section 321J.9, or section 321J.12, subsection 2.

18 (1) A defendant whose alcohol concentration is .08 or more  
19 shall be eligible for a temporary restricted license upon  
20 conviction if a test was obtained and no accident resulting in  
21 personal injury or property damage occurred. If such accident  
22 occurred, the defendant shall be eligible for a temporary  
23 restricted license after any period of ineligibility as  
24 determined by the court.

25 (2) A defendant whose revocation occurs because the  
26 defendant refused to submit to chemical testing under section  
27 321J.9 shall be eligible for a temporary restricted license  
28 ninety days after conviction.

29 (3) The department shall require the defendant to install  
30 an ignition interlock device of a type approved by the  
31 commissioner of public safety on all vehicles owned or operated  
32 by the defendant if the defendant seeks a temporary restricted  
33 license.

34 Sec. 3. Section 321J.4, subsections 1 through 4, Code 2013,  
35 are amended by striking the subsections and inserting in lieu

1 thereof the following:

2     1. If a defendant is convicted of a violation of section  
3 321J.2 and the defendant's driver's license or nonresident  
4 operating privilege has not been revoked under section 321J.9  
5 or 321J.12 for the occurrence from which the arrest arose, the  
6 department shall revoke the defendant's driver's license or  
7 nonresident operating privilege for one hundred eighty days  
8 if the defendant submitted to chemical testing and has had  
9 no previous conviction or revocation under this chapter and  
10 shall revoke the defendant's driver's license or nonresident  
11 operating privilege for one year if the defendant refused to  
12 submit to chemical testing and has had no previous conviction  
13 or revocation under this chapter.

14     a. A defendant whose alcohol concentration is .08 or more  
15 shall be eligible for a temporary restricted license upon  
16 conviction if a test was obtained and no accident resulting in  
17 personal injury or property damage occurred. If such accident  
18 occurred, the defendant shall be eligible for a temporary  
19 restricted license after any period of ineligibility as  
20 determined by the court.

21     b. A defendant whose revocation occurs because the person  
22 refused to submit to chemical testing under section 321J.9  
23 shall be eligible for a temporary restricted license ninety  
24 days after conviction.

25     c. The department shall require the defendant to install  
26 an ignition interlock device of a type approved by the  
27 commissioner of public safety on all vehicles owned or operated  
28 by the defendant if the defendant seeks a temporary restricted  
29 license.

30     d. If the defendant is under the age of twenty-one, the  
31 defendant shall be eligible for a temporary restricted license  
32 after any period of ineligibility as determined by the court.

33     2. If a defendant is convicted of a violation of section  
34 321J.2, and the defendant's driver's license or nonresident  
35 operating privilege has not already been revoked under section

1 321J.9 or 321J.12 for the occurrence from which the arrest  
2 arose, the department shall revoke the defendant's driver's  
3 license or nonresident operating privilege for one year if the  
4 defendant submitted to chemical testing and has had a previous  
5 conviction or revocation under this chapter and shall revoke  
6 the defendant's driver's license or nonresident operating  
7 privilege for two years if the defendant refused to submit to  
8 chemical testing and has had a previous revocation under this  
9 chapter.

10     *a.* The defendant shall be eligible for a temporary  
11 restricted license on or after the effective date of revocation  
12 if the defendant submitted to chemical testing and shall be  
13 eligible for a temporary restricted license ninety days after  
14 the effective date of revocation if the defendant refused to  
15 submit to chemical testing.

16     *b.* The temporary restricted license shall be issued in  
17 accordance with section 321J.20, subsection 2.

18     *c.* The department shall require the defendant to install  
19 an ignition interlock device of a type approved by the  
20 commissioner of public safety on all vehicles owned or operated  
21 by the defendant for a minimum period of one year if the  
22 defendant seeks a temporary restricted license. A temporary  
23 restricted license shall not be granted by the department until  
24 the defendant installs the ignition interlock device.

25     3. If the court defers judgment pursuant to section 907.3  
26 for a violation of section 321J.2, and if the defendant's  
27 driver's license or nonresident operating privilege has not  
28 been revoked under section 321J.9 or 321J.12, or has not  
29 otherwise been revoked for the occurrence from which the arrest  
30 arose, the department shall revoke the defendant's driver's  
31 license or nonresident operating privilege for a period of not  
32 less than thirty days nor more than ninety days.

33     *a.* A defendant whose alcohol concentration is .08 or more  
34 shall be eligible for a temporary restricted license upon  
35 conviction if a test was obtained and no accident resulting in

1 personal injury or property damage occurred. If such accident  
2 occurred, the defendant shall be eligible for a temporary  
3 restricted license after any period of ineligibility as  
4 determined by the court.

5     *b.* A defendant whose revocation occurs because the person  
6 refused to submit to chemical testing under section 321J.9  
7 shall be eligible for a temporary restricted license ninety  
8 days after conviction.

9     *c.* The department shall require the defendant to install  
10 an ignition interlock device of a type approved by the  
11 commissioner of public safety on all vehicles owned or operated  
12 by the defendant if the defendant seeks a temporary restricted  
13 license.

14     *d.* If the defendant is under the age of twenty-one, the  
15 defendant shall be eligible for a temporary restricted license  
16 after any period of ineligibility as determined by the court  
17 upon conviction.

18     4. Upon a plea or verdict of guilty of a third or subsequent  
19 violation of section 321J.2, the department shall revoke the  
20 defendant's driver's license or nonresident operating privilege  
21 for a period of six years.

22     *a.* The department shall credit any period that the  
23 defendant's driver's license or nonresident operating privilege  
24 was revoked under section 321J.9 or 321J.12 for the same  
25 occurrence toward the six-year revocation period, limiting the  
26 total revocation period for the same occurrence to six years.

27     *b.* The defendant shall be eligible for a temporary  
28 restricted license for the remainder of the six-year period  
29 after any period of ineligibility as determined by the court.

30     *c.* The department shall require the defendant to install  
31 an ignition interlock device of a type approved by the  
32 commissioner of public safety on all vehicles owned or operated  
33 by the defendant if the defendant seeks a temporary restricted  
34 license. A temporary restricted license shall not be granted  
35 by the department until the defendant installs the ignition

1 interlock device.

2 Sec. 4. Section 321J.4, subsections 5 and 6, Code 2013, are  
3 amended to read as follows:

4 5. Upon a plea or verdict of guilty of a violation of  
5 section 321J.2 which involved a personal injury, the court  
6 shall determine in open court, from consideration of the  
7 information in the file and any other evidence the parties may  
8 submit, whether a serious injury was sustained by any person  
9 other than the defendant and, if so, whether the defendant's  
10 conduct in violation of section 321J.2 caused the serious  
11 injury. If the court so determines, the court shall order  
12 the department to revoke the defendant's driver's license or  
13 nonresident operating privilege for a period of one year in  
14 addition to any other period of suspension or revocation. The  
15 defendant shall not be eligible for any temporary restricted  
16 license until the ~~minimum~~ period of ineligibility as determined  
17 by the court has expired ~~under this section or section 321J.9,~~  
18 ~~321J.12, or 321J.20.~~ The defendant shall surrender to the  
19 court any Iowa license or permit and the court shall forward it  
20 to the department with a copy of the order for revocation.

21 6. Upon a plea or verdict of guilty of a violation of  
22 section 321J.2 which involved a death, the court shall  
23 determine in open court, from consideration of the information  
24 in the file and any other evidence the parties may submit,  
25 whether a death occurred and, if so, whether the defendant's  
26 conduct in violation of section 321J.2 caused the death. If  
27 the court so determines, the court shall order the department  
28 to revoke the defendant's driver's license or nonresident  
29 operating privilege for a period of six years. The defendant  
30 shall not be eligible for any temporary restricted license  
31 ~~for at least two years after the revocation~~ until the period  
32 of ineligibility as determined by the court has expired. The  
33 defendant shall surrender to the court any Iowa license or  
34 permit and the court shall forward it to the department with a  
35 copy of the order for revocation.

1     Sec. 5. Section 321J.4, subsection 8, paragraph f, Code  
2 2013, is amended to read as follows:

3     *f. (i)* A person who tampers with or circumvents an ignition  
4 interlock device ~~installed under a court order while an order~~  
5 ~~is in effect~~ commits a serious misdemeanor.

6     *(ii)* A person who assists a person who tampers with or  
7 circumvents an ignition interlock device commits a serious  
8 misdemeanor.

9     Sec. 6. Section 321J.4, subsection 8, Code 2013, is amended  
10 by adding the following new paragraph:

11     NEW PARAGRAPH. *g.* The department shall credit, on a  
12 day-for-day basis, any period of time during which a defendant  
13 has held a valid temporary restricted license against the  
14 period of time during which the defendant is required to  
15 install an ignition interlock device pursuant to this chapter.

16     Sec. 7. Section 321J.12, subsection 2, Code 2013, is amended  
17 by striking the subsection and inserting in lieu thereof the  
18 following:

19     2. *a.* A person whose driver's license or nonresident  
20 operating privileges have been revoked under subsection 1,  
21 paragraph "a", whose alcohol concentration is .08 or more shall  
22 be eligible for a temporary restricted license on or after the  
23 effective date of the revocation if a test was obtained and  
24 no accident resulting in personal injury or property damage  
25 occurred. If such an accident occurred, the defendant shall  
26 be eligible for a temporary restricted license after any  
27 period of ineligibility established by the court at the time  
28 of arraignment. The department shall require the person to  
29 install an ignition interlock device of a type approved by the  
30 commissioner of public safety on all vehicles owned or operated  
31 by the defendant if the defendant seeks a temporary restricted  
32 license.

33     *b.* If the person is under the age of twenty-one, the person  
34 shall be eligible for a temporary restricted license after any  
35 period of ineligibility as determined by the court at the time

1 of arraignment.

2     *c.* A person whose license or privileges have been revoked  
3 under subsection 1, paragraph "b", for one year shall be  
4 eligible for a temporary restricted license on or after the  
5 effective date of the revocation. The temporary restricted  
6 license shall be issued in accordance with section 321J.20,  
7 subsection 2. A temporary restricted license shall not  
8 be granted by the department until the defendant installs  
9 the ignition interlock device of a type approved by the  
10 commissioner of public safety on all vehicles owned or operated  
11 by the defendant.

12     Sec. 8. Section 321J.17, subsections 1 and 3, Code 2013, are  
13 amended to read as follows:

14     1. If the department revokes a person's driver's license  
15 or nonresident operating privilege under this chapter, the  
16 department shall assess the person a civil penalty of two  
17 hundred dollars. The money collected by the department under  
18 this section shall be transmitted to the treasurer of state  
19 who shall deposit one-half of the money in the separate fund  
20 established in section 915.94 and one-half of the money in the  
21 general fund of the state. A temporary restricted license  
22 shall not be issued unless an ignition interlock device  
23 has been installed pursuant to section 321J.4. A Except as  
24 otherwise provided in section 321J.20, a driver's license or  
25 nonresident operating privilege shall not be reinstated unless  
26 proof of deinstallation of that an ignition interlock device  
27 installed pursuant to section 321J.4 remained installed and  
28 functioning until the end of such period of revocation has  
29 been submitted to the department in a format acceptable to  
30 the department. Except as provided in section 321.210B, a  
31 temporary restricted license shall not be issued or a driver's  
32 license or nonresident operating privilege reinstated until  
33 the civil penalty has been paid. A person assessed a penalty  
34 under this section may remit the civil penalty along with a  
35 processing fee of five dollars to a county treasurer authorized

1 to issue driver's licenses under chapter 321M, or the civil  
2 penalty may be paid directly to the department.

3 3. The department shall also require certification of  
4 installation of an ignition interlock device of a type approved  
5 by the commissioner of public safety on all motor vehicles  
6 owned or operated by any person seeking reinstatement following  
7 a ~~second or subsequent~~ revocation under section 321J.4, 321J.9,  
8 or 321J.12, unless such a person has previously received a  
9 temporary restricted license during the term of the revocation  
10 as authorized by this chapter. ~~The requirement for the~~  
11 ~~installation~~ Installation of an approved ignition interlock  
12 ~~device shall be~~ is required for a minimum period of six months  
13 for a person with no prior license revocations under this  
14 chapter, and a minimum period of one year for a person who  
15 has had a previous revocation, from the date of reinstatement  
16 unless a different time longer period of time is required  
17 by statute. The department shall credit, on a day-for-day  
18 basis, any period of time during which a person has held a  
19 valid temporary restricted license during any revocation for  
20 the occurrence from which the arrest arose against the period  
21 of time during which the defendant is required to install an  
22 ignition interlock device. The person shall not operate any  
23 motor vehicle that is not equipped with an approved functioning  
24 ignition interlock device during the period in which an  
25 ignition interlock device must be installed, and the department  
26 shall not grant reinstatement unless the person certifies  
27 installation of an ignition interlock device as required in  
28 this subsection.

29 Sec. 9. Section 321J.20, subsections 1 and 2, Code 2013,  
30 are amended by striking the subsections and inserting in lieu  
31 thereof the following:

32 1. The department may, on application, issue a temporary  
33 restricted license to a person whose noncommercial driver's  
34 license is revoked under section 321J.4, 321J.9, or 321J.12,  
35 allowing the person to drive a motor vehicle equipped with an

1 ignition interlock device for all lawful purposes not requiring  
2 a commercial driver's license, subject to any court-ordered  
3 or statutory period of ineligibility. A temporary restricted  
4 license shall not be issued until the applicant installs a  
5 functioning ignition interlock device of a type approved by the  
6 commissioner of public safety on all motor vehicles owned or  
7 operated by the applicant in accordance with section 321J.2,  
8 321J.4, 321J.9, or 321J.12. Installation of an ignition  
9 interlock device under this subsection shall be required for  
10 the period of time for which the temporary restricted license  
11 is issued and for any such additional period of time following  
12 reinstatement required pursuant to section 321J.17, subsection  
13 3.

14 2. *a.* Notwithstanding section 321.560, the department may,  
15 on application, and upon the expiration of the minimum period  
16 of ineligibility for a temporary restricted license provided  
17 for under section 321.560, 321J.4, 321J.9, or 321J.12, issue a  
18 temporary restricted license to a person whose noncommercial  
19 driver's license has either been revoked under this chapter, or  
20 revoked or suspended under chapter 321 for violations of this  
21 chapter, or who has been determined to be a habitual offender  
22 under chapter 321 based on violations of this chapter or on  
23 violations listed in section 321.560, subsection 1, paragraph  
24 "b", and who is not eligible for a temporary restricted license  
25 under subsection 1. However, the department may not issue  
26 a temporary restricted license under this subsection for a  
27 violation of section 321J.2A or to a person under the age  
28 of twenty-one whose license is revoked under section 321J.4,  
29 321J.9, or 321J.12.

30 *b.* A temporary restricted license issued under this  
31 subsection shall not be issued until the applicant installs  
32 an approved ignition interlock device on all motor vehicles  
33 owned or operated by the applicant. Installation of an  
34 approved ignition interlock device under this subsection shall  
35 be required for the period of time for which the temporary

1 restricted license is issued and for such additional period  
2 of time following reinstatement required pursuant to section  
3 321J.17, subsection 3. However, a person whose driver's  
4 license or nonresident operating privilege has been revoked  
5 under section 321J.21 may apply to the department for a  
6 temporary restricted license without the requirement of  
7 an ignition interlock device if at least twelve years have  
8 elapsed since the end of the underlying revocation period for  
9 a violation of section 321J.2.

10 Sec. 10. Section 321J.20, subsection 4, Code 2013, is  
11 amended by striking the subsection.

12 Sec. 11. Section 321J.20, subsection 8, Code 2013, is  
13 amended to read as follows:

14 8. a. A person who tampers with or circumvents an ignition  
15 interlock device installed as required in this chapter and  
16 while the requirement for the ignition interlock device is in  
17 effect commits a serious misdemeanor.

18 b. A person who assists a person who tampers with or  
19 circumvents an ignition interlock device installed as required  
20 in this chapter and while the requirement for the ignition  
21 interlock device is in effect commits a serious misdemeanor.

22 Sec. 12. Section 321J.20, Code 2013, is amended by adding  
23 the following new subsections:

24 NEW SUBSECTION. 9. The department shall credit, on a  
25 day-for-day basis, any period of time during which a person has  
26 held a temporary restricted license against the period of time  
27 during which the person is required to install the ignition  
28 interlock device pursuant to this chapter.

29 NEW SUBSECTION. 10. A person's election to keep an ignition  
30 interlock device installed in the person's vehicle after the  
31 period of time the ignition interlock device is required to  
32 be installed shall not affect reinstatement of the person's  
33 driver's license or nonresident operating privilege if the  
34 person has met all of the requirements of reinstatement under  
35 section 321J.17.

## 1 EXPLANATION

2 This bill relates to temporary restricted licenses for  
3 operating-while-intoxicated violators and provides penalties.

4 TEMPORARY RESTRICTED LICENSES. Current law provides  
5 different statutory periods of ineligibility for a temporary  
6 restricted license for persons whose licenses are revoked  
7 due to a criminal conviction or an administrative action  
8 under Code chapter 321J (Iowa's operating-while-intoxicated  
9 law) depending upon the circumstances of the offense or  
10 violation. The bill provides that a first-time offender who  
11 is convicted of or who has received a deferred judgment for an  
12 operating-while-intoxicated offense pursuant to Code section  
13 321J.2 while having an alcohol concentration of .08 or more and  
14 a person who has not had an administrative license revocation  
15 due to a test failure pursuant to Code section 321J.12 may  
16 apply to the department of transportation (department) for a  
17 temporary restricted license immediately upon conviction or  
18 revocation unless an accident with property damage or personal  
19 injury occurred. In those cases, the court has the discretion  
20 to impose a period of ineligibility for a temporary restricted  
21 license on the offender. The bill also amends prior law to  
22 allow the court to impose a period of ineligibility for a  
23 temporary restricted license in all cases involving persons  
24 under the age of 21, for criminal convictions under Code  
25 section 321J.2 that involve serious injury or death, and for  
26 third and subsequent criminal convictions under Code section  
27 321J.2. The bill retains current law relating to the 90-day  
28 ineligibility period for persons who refuse to submit to  
29 testing pursuant to Code section 321J.9.

30 The bill requires a person who has had a previous license  
31 revocation under Code chapter 321J who applies for a temporary  
32 restricted license to install an ignition interlock device  
33 on the defendant's vehicle for one year after any period of  
34 ineligibility to conform to federal law.

35 The bill requires the department to credit, on a day-for-day

1 basis, any period of time during which a defendant holds a  
2 valid temporary restricted license against the period of time  
3 during which the defendant is otherwise required to install an  
4 ignition interlock device under Code chapter 321J.

5 TEMPORARY RESTRICTED LICENSE RESTRICTIONS. Current law  
6 provides that the department may issue a temporary restricted  
7 license to allow a person to drive to and from the person's  
8 home and specified places at specified times which are required  
9 by the person's full-time or part-time employment, continuing  
10 education while enrolled in an educational institution on a  
11 part-time or full-time basis and while pursuing a course of  
12 study leading to a diploma, degree, or other certification  
13 of successful educational completion, or substance abuse  
14 treatment. A person holding a temporary restricted license is  
15 also restricted from operating a motor vehicle for pleasure.  
16 The bill eliminates these driving restrictions for persons who  
17 hold temporary restricted licenses.

18 NEW OFFENSE — TAMPERING OR CIRCUMVENTING IGNITION INTERLOCK  
19 DEVICE — ASSISTANCE. Current law provides that a person  
20 who tampers with or circumvents an ignition interlock device  
21 installed pursuant to court order is guilty of a serious  
22 misdemeanor. The bill provides that a person who assists a  
23 person in the tampering with or circumvention of an ignition  
24 interlock device is also guilty of a serious misdemeanor. A  
25 serious misdemeanor is punishable by confinement for no more  
26 than one year and a fine of at least \$315 but not more than  
27 \$1,875.

28 CONDITIONS FOR LICENSE REINSTATEMENT. Under current law,  
29 if the department revokes a person's driver's license or  
30 nonresident operating privilege under Code chapter 321J, a  
31 driver's license or nonresident operating privilege shall not  
32 be reinstated by the department unless the person seeking  
33 reinstatement completes certain requirements. The bill  
34 provides that a driver's license or nonresident operating  
35 privilege shall not be reinstated unless proof that an ignition

1 interlock device remained installed and functioning until the  
2 end of the revocation period is submitted to the department in  
3 a format acceptable to the department. The bill also provides  
4 that, unless a person has previously received a temporary  
5 restricted license during any term of revocation under Code  
6 chapter 321J, a functioning ignition interlock device shall  
7 be installed for a minimum period of six months for a person  
8 whose driver's license or nonresident operating privilege  
9 has not been previously revoked under Code chapter 321J, and  
10 a minimum of one year for a person who has had a previous  
11 revocation from the date of reinstatement unless a longer time  
12 period is required by statute. The department is required  
13 to credit, on a day-for-day basis, any period of time during  
14 which a person has held a valid temporary restricted license  
15 during any revocation for the occurrence from which the arrest  
16 arose against the period of time during which the defendant is  
17 otherwise required to install an ignition interlock device.

18 The bill provides that a person's election to voluntarily  
19 keep an ignition interlock device installed in the person's  
20 vehicle after the period of time required shall not affect  
21 reinstatement of the person's driver's license or nonresident  
22 operating privilege if the person has met all the requirements  
23 for reinstatement.